

CHAPTER 80-2-3

SHARES, DEPOSITS AND DIVIDENDS

80-2-3-01	Certificate of Deposit.	80-2-3-05	Third Party Payment Services; Other Consumer Services.
80-2-3-02	Classes of Deposits and Shares; Dividends on Deposit Accounts.	80-2-3-06	Service Charges Against Dormant Accounts
80-2-3-03	Payment Periods for Dividends.		
80-2-3-04	Departmental Approval of Dividends. Amended		

80-2-3-01 Certificate of Deposit.

(1) Certificates of Deposit Generally--Any credit union may, from time to time as determined by its board of directors, issue deposit contracts in the form of Certificates of Deposit whereby the credit union agrees to pay a guaranteed rate of interest to the depositor which may be less than, equal to, or greater than any rate paid in the past or anticipated to be paid in the future on regular share deposits of members, provided the terms of such contracts are in compliance with the provisions of this regulation.

(2) Minimum Contract Terms and Standards:

(a) Monies accepted by a credit union pursuant to the authority of paragraph (1) of this regulation shall be considered to be a deposit subject to the provisions of the Financial Institutions Code of Georgia under the following conditions:

1. Certificates of deposit are issued only to members of the issuing credit union or to another financial institution consistent with Code Section 7-1-650;
2. Certificates of deposit shall have a fixed maturity, and shall disclose their terms, including any automatic renewal provisions as established by the board of directors;
3. Funds deposited thereunder shall be subject to penalty provisions for withdrawal prior to maturity;
4. Certificates of deposit shall be non-negotiable and nontransferable;
5. The rates of interest payable under the certificate of deposit contract shall be approved by the Board of Directors of the credit union;
6. Requirements set forth in sections (2)(a)2, (2)(a)3 and 2(a)4 of this rule shall be disclosed to the depositor along with the date of maturity, interest rate, penalties for early withdrawal, and principal amount of the certificate of deposit.

(b) Every credit union issuing Certificates of Deposit shall maintain a record of every certificate of deposit issued. The record may be in the form of a register, ledger, or copy of the certificate by

other technological means available and shall show:

- (i) The name of the registered owner of the certificate of deposit;
- (ii) The amount of the certificate of deposit;
- (iii) The maturity of the certificate of deposit; and
- (iv) The rate of interest payable on the certificate of deposit.

(c) Interest may be payable at such intervals in accordance with the contract as determined by the board of directors but not more frequently than monthly except for the payment of accrued dividends at the time of redemption of the certificate of deposit. Interest may be paid by check or other electronic means, by deposit to the member's regular share account, or added to the principal value of the certificate of deposit.

(d) No dividends on regular share accounts may be paid until after all interest due and payable on any Certificate of Deposit issued has been paid or credited in full. Such interest may be treated as an expense for financial accounting purposes but shall be added back to net income (loss) to determine "net earnings available for distribution" to the members.

Authority Ga. L. 1968, pp. 465, 466; 1974, pp. 705, 733, 903, 904; 1975, pp. 445, 464; O.C.G.A. § 7-1-61.

80-2-3-02 Repealed. Reserved.

Authority Ga. L. §7-1-61; §7-1-663.

80-2-3-03 Repealed. Reserved.

Authority Ga. L. §7-1-61; §7-1-663.

80-2-3-04 Departmental Approval of Dividends. Amended.

(1) A credit union proposing to pay dividends and interest in excess of 90% of its "net earnings available for distribution" for the preceding fiscal year may do so without the prior written approval of the department; provided that such dividends and interest do not exceed 100% of the estimated "net earnings available for distribution" for the period for which such dividends and interest are paid.

(2) Requests for approval of dividends and interest in excess of 100% of the estimated "net

earnings available for distribution” of the credit union must be submitted on forms provided by the department. For the purpose of this section, “net earnings available for distribution” shall be defined as net income of the credit union after providing for all required reserves, but before deductions for interest and dividends applicable to the payment period.

(3) Approval of dividends shall be based upon the following considerations:

- (a) Adequacy of current year earnings to fund the proposed dividends;
- (b) Adequacy of reserves;
- (c) Adequacy of Undivided Earnings from previous fiscal years to maintain a level of capital commensurate with asset growth, net worth requirements in accordance with applicable law and regulations, and adequate funding of ongoing operations;
- (d) Effects of any dividend reduction on cash flow and liquidity;
- (e) Competitiveness of dividend structure and deposit classifications; and
- (f) Asset condition of the credit union.

Authority Ga. L. §7-1-61; §7-1-663.

80-2-3-.05 Third Party Payment Services; Other Consumer Services.

(1) Third Party Payment Services (TPPS) may be offered by State-chartered credit unions to their members provided the credit union complies with Code Section 7-1-670.

(2) Applications for TPPS which do not qualify for the notice only procedure in subsection (3) shall require prior approval and shall be in letter form signed by an officer of the credit union. Applications shall contain such schedules and exhibits as are necessary to provide the following information:

- (a) A resolution of the board of directors of the credit union authorizing management to file the application and stating that the board has reviewed the application in its entirety and concurs with its contents;
- (b) A statement of the assets and liabilities of the credit union as of a date not more than thirty (30) days prior to the date of the application;
- (c) Appropriate assurance that the credit union has the ability to post all transactions occurring on its books on a daily basis, including the preparation of a daily statement of assets and liabilities;
- (d) Appropriate assurance that all necessary personnel are familiar with the requirements of the

Uniform Commercial Code as applicable to checks and deposits and the credit union will comply with the provisions of that Code. In this regard, the application should include a copy of the proposed signature card contract to be signed by the accountholder as well as a general outline of the proposed TPPS program;

(e) The application should contain a statement of the policy of the board of directors relative to the charge off of losses, whether disclosed through examination reports or otherwise, and their policy with regard to the replenishing of appropriate allowance accounts following such charge-offs. Approval of the application may be conditioned upon appropriate increases to the allowance account to bring the allowance to a level determined to be adequate relative to the asset condition of the credit union and this level may or may not be in excess of the statutory minimums;

(f) A statement of the board's policy relative to any interest payments to be made on the proposed TPPS accounts including frequency and amount of interest to be paid;

(g) A statement relative to any changes in management or other personnel resources, internal control and operating procedures, and equipment and premises which might be proposed to implement the TPPS program. Copies of all data processor and clearing-bank contracts should be included in the application;

(h) Such other information as has bearing upon the application.

(3) A credit union that meets the financial and management criteria below may offer TPPS to its members by means of a letter notice to the department, at least thirty (30) days before the credit union intends to offer the services. The letter, from an officer of the credit union, shall state that the credit union meets the criteria in this rule, and that it has determined that the factors in Code Section 7-1-670(a) have all been satisfied. The department may notify the credit union of any problems or issues it has with the offering, but if the credit union does not receive such notification during the thirty (30) day period following receipt of the notice, it may proceed. The criteria to qualify for a notice only procedure are that the credit union must:

(a) Have a CAMEL Composite rating of 1 or 2 on the most recent report of examination;

(b) Have a CAMEL Management component rating of 1 or 2;

(c) Not be subject to any form of administrative action;

(d) Be determined by the regulatory and policy requirements of the Department of Banking and Finance and the National Credit Union Administration to be well capitalized; and

(e) Have total assets of at least \$1,000,000.

(4) The application for prior written approval must demonstrate that:

(a) There exists a need among the membership; and

(b) The service can be implemented on a profitable basis as determined by a three-year projection of the number of accounts, volume of transactions, and average aggregate balances in such accounts. Such projections should take into account the influence, if any, due to the stability of the credit union's field of membership. These variables as well as others thought applicable should be utilized to arrive at the three-year pro forma profitability analysis reflecting anticipated costs of providing the services and revenues to be generated by the services themselves as well as by investment (in loans and other investments) of funds generated by the accounts. Projections should recognize that funds must be set aside in certain statutory form to meet legal liquidity reserve requirements with the Federal Reserve.

(5) Credit unions that offer TTPS and that meet the requirements of Subparagraph (3) above may offer, with the approval of the department, other services as provided by Code Section 7-1-670 to consumers eligible for membership. Letter form applications shall contain such schedules and exhibits as the department deems necessary to demonstrate the following:

- (a) There exists a need for the credit union to offer the specific service;
- (b) A plan proposed by the credit union will serve that need; and
- (c) The plan can be implemented on a safe, sound, convenient and responsive basis to consumers eligible for membership.

Authority Ga. L. 1974, pp. 705, 904; 1979, pp. 417, 418; O.C.G.A. § 7-1-61.

80-2-3-06 Service Charges Against Dormant Accounts.

The provisions contained in Chapter 80-1-8, Dormant Accounts, shall be applicable to credit unions in determining which accounts are dormant and the maximum service charges which may be assessed against such accounts.

Authority Ga. L. 1974, pp. 705, 733, 904.